



John Engler, Governor

## DEPARTMENT OF COMMERCE

Arthur E. Ellis, Director

### MICHIGAN CORPORATION AND SECURITIES BUREAU

#### RELEASE 94-2-S

TO: ALL INTERESTED PARTIES

SUBJECT: Michigan Limited Liability Companies

#### General Background

On June 1, 1993 the Michigan Limited Liability Company Act, 1993 Act PA 23, as amended (the "LLCA") became effective. Section 201 of the LLCA provides that "a limited liability company may be formed under this act for any lawful purpose for which a domestic corporation or a domestic partnership could be formed, except as otherwise provided in Article 9 or other law." Article 9 deals with domestic professional service limited liability companies.

Section 1103 of the LLCA states that "an interest in a limited liability company to which this act applies is a security to the same extent as an interest in a corporation, partnership or limited partnership is a security." Thus, if an interest in a limited liability company is a security, then Section 301 of the Michigan Uniform Securities Act is applicable. Section 301 provides that it is unlawful for any person to offer or sell any security in this state unless (1) it is registered under this act or (2) the security or transaction is exempted under Section 402. The purpose of this Release is to define the counting provisions for persons who are members of a limited liability company pursuant to Section 402(b)(9)(F) of the Michigan Uniform Securities Act.

#### Action and Interpretation:

Section 402(b)(9) of the Michigan Uniform Securities Act provides a transactional securities exemption. Subparagraph (D) sets forth the number of persons to whom sales may be made. Subparagraph (F) states the counting provisions for certain classifications of persons. It covers offers or sales made to pension or profit sharing trusts, partnerships or associations, corporations or business trusts, investment companies, etc.

Insofar as the counting provisions for limited liability companies, the Bureau will follow the provisions contained in subparagraph (F)(3) which deals with offers or sales made to a corporation or business trust. This subparagraph will be deemed to include limited liability companies.

#### Authority:

Act 265 of 1964, Section 402(b)(9)(G).

Approved by Carl L. Tyson, Director  
Corporation & Securities Bureau  
on January 20, 1995